

Message Text

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PAGE 01 SAN SA 00959 012237Z
ACTION ARA-10

INFO OCT-01 ISO-00 SCS-03 SCA-01 SSO-00 DHA-02 L-03 H-01
NSC-05 NSCE-00 PRS-01 USIE-00 CIAE-00 INR-07 NSAE-00
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O R 012205Z MAR 77
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC IMMEDIATE 3519
INFO AMEMBASSY GUATEMALA

C O N F I D E N T I A L SAN SALVADOR 0959

E.O. 11652: GDS
TAGS: CASC, SHUM, PINS, ES
SUBJECT: TREATMENT OF U.S. CITIZEN PRIEST

REF: (A) STATE 043666, (B) SAN SALVADOR 0931, (C) SAN SALVADOR 0869

1. CONSOFF SPOKE ON MARCH 1 WITH FATHER JOHN SPAIN, WHO HAD BEEN WITH SURVIL AFTER SECOND MEETING WITH DIRGEN OF IMMIGRATION AND WAS IN CONTACT WITH SURVIL AFTER LATTER'S EXPULSION. SPAIN STATED THAT SURVIL DESCRIBED EVENTS OF NIGHT OF FEBRUARY 14 AS FOLLOWS: AFTER ARREST BY GUARDIA NACIONAL, HE WAS TAKEN TO GUARDIA BARRACKS AT OPICO. AFTER ENTERING BUILDING HE WAS STRIPPED, BLINDFOLDED, AND HANDCUFFED SPREADEAGLED ON A BED. HE WAS QUESTIONED DURING THE NIGHT ABOUT HIS ACTIVITIES (SPAIN THINKS QUESTIONING WAS PSYCHOLOGICAL TACTIC TO WEAR SURVIL DOWN RATHER THAN ATTEMPT TO ELICIT INFORMATION). HE WAS NOT ALLOWED TO USE BATHROOM. NEXT MORNING (FEBRUARY 15) HE WAS ALLOWED TO DRESS AND, STILL BLIND-FOLDED, WAS TAKEN IN TO A CAR. AT SOME POINT DURING TRIP TO SAN SALVADOR DRIVER WAS CHANGED AND BLINDFOLD REMOVED (PRESUMABLY, THIS WAS WHEN CUSTODY TRANSFERRED FROM GUARDIA TO IMMIGRATION OFFICERS).

2. A RELIABLE CONTACT OF POLSEC, AFTER A FEBRUARY 28 MEETING WITH THE DIRECTOR OF IMMIGRATION (COL. SANTIBANEZ), STATED
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 SAN SA 00959 012237Z

THAT THE COLONEL ADMITTED TO HIM THAT FATHER SURVIL HAD REPEAT HAD BEEN "GIVEN A BEATING" DURING HIS DETENTION. SANTIBANEZ REPORTEDLY EXPLAINED THAT THIS WAS THE RESULT OF SURVIL'S "DISRESPECTFUL ATTITUDE AND HIS OBSTREPEROUS BEHAVIOR" WHILE IN CUSTODY.

3. CONSOFF HAD DISCUSSED QUESTION OF CONSULAR RIGHT OF ACCESS

TO ARRESTED U.S. CITIZEN WITH SURVIL ON FEBRUARY 11 AND HE WAS PRESUMABLY AWARE OF HIS RIGHT TO CONTACT EMBASSY WHEN HE WAS ARRESTED. DIRGEN OF IMMIGRATION NOTIFIED EMBASSY OF ARREST AS SOON AS SURVIL ARRIVED AT IMMIGRATION OFFICE, WHICH WAS WITHIN 12 HOURS AFTER ARREST. WE DO NOT KNOW, AND SURVIL DID NOT SAY, WHETHER HE WAS INFORMED BY GUARDIA NACIONAL OF HIS RIGHTS TO SEE HIS CONSUL, OR WHETHER HE INDEED MAY HAVE ASKED DURING NIGHT OF HIS ARREST TO SEE HIM.

4. SURVIL DID NOT MENTION ANY PHYSICAL ABUSE TO CONSOFF DURING CONVERSATION AT EMBASSY AFTER RELEASE FROM IMMIGRATION OFFICE CUSTODY FEBRUARY 15. FATHER SPAIN, WHOM CONSULAR OFFICER HAD SEEN SEVERAL TIMES IN RELATION THIS CASE, SAID HE HAD NOT PREVIOUSLY MENTIONED GUARDIA NACIONAL TREATMENT OF SURVIL, BECAUSE HE THOUGHT SURVIL HIMSELF HAD MENTIONED IT.

5. EMBASSY APPRECIATES DEPARTMENT'S RECOUNTING OF FACTS IN PARA. 5 REFTEL (C). WE HAD NOT BEEN AWARE THAT ART. 55 AND 56 OF UN CHARTER AND GENERAL INTERNATIONAL LAW WAS INTERPRETED TO MEAN THAT THERE MUST BE A "FAIR HEARING" ON DEPORTATION PROCEEDINGS, I.E. "NOTICE OF CHARGES AND HEARING BEFORE AN INDEPENDENT AND IMPARTIAL BODY". WE HAD BELIEVED THAT RIGHT TO DEPORT AN ALIEN CONSIDERED UNDESIRABLE WAS A SOVEREIGN ATTRIBUTE AND NOT NECESSARILY SUBJECT TO QUALIFICATIONS SUCH AS NEED FOR JUDICIAL OR QUASI-JUDICIAL PROCEDURES. THE TWO "HEARINGS" GRANTED SURVIL, ND THE CARE WITH WHICH THE IMMIGRATION SERVICE READ HIM THE LAW, ARE MORE THAN ACCORDED MOST DEPORTEES FROM EL SALVADOR. "INDEPENDENT AND IMPARTIAL" HEARINGS ARE NOT GRANTED HERE AND, TRUE, THERE IS USUALLY A CONFIDENTIAL

CONFIDENTIAL

PAGE 03 SAN SA 00959 012237Z

PRIMA FACIE SUPPOSITION ON THE PART OF IMMIGRATION AUTHORITIES OF THE DEPORTEE'S GUILT. WE WOULD APPRECIATE CLARIFICATION OF THIS POINT AND AWAIT INSTRUCTIONS WHETHER ANY SORT OF PROTEST SHOULD BE SENT THE GOVERNMENT OF EL SALVADOR ON ITS TREATMENT OF SURVIL.

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